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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/377,866 08/20/99 KOZACHUK W 7381.111

HM12/0906

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EXAMINER

AULAKH, C

ART UNIT

PAPER NUMBER

1625

DATE MAILED:

09/06/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/377,866**

Applicant(s)  
**Kozachuk, W.E.**

Examiner  
**Charanjit Aulakh**

Group Art Unit  
**1625**



☒ Responsive to communication(s) filed on Jul 12, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 4-6 and 9-24 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 4-6 and 9-24 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit: 1625

### **DETAILED ACTION**

1. According to paper no. 8, filed on July 12, 2000, the applicants have added new claims 9-24.
2. Claims 4-6 and 9-24 are now pending in the application.

### ***Response to Arguments***

3. Applicant's arguments filed on July 12, 2000 ( paper no. 8 ) have been fully considered but they are not persuasive. Regarding enablement rejection, the examiner does not agree with the applicants arguments that the specification is enabling for every possible glycine type NMDA antagonists. The applicants admit that most if not all known glycine type NMDA antagonists are capable of crossing blood brain barrier. The applicants admit that all glycine type NMDA antagonists do not cross blood brain barrier and therefore, will not have utility as neuroprotectives.

The examiner also does not agree with the applicants arguments regarding prior art rejections.

Sofia's reference , Newell's reference as well as Leeson's reference clearly teach utility of glycine type NMDA receptor antagonists as neuroprotective agents using in vivo and in vitro methods.

Felbamate is a glycine type NMDA receptor antagonist and its administration will block NMDA receptor-mediated effects such as excessive NMDA stimulation, neuronal damage due to ischemia whether focal or global.

Art Unit: 1625

***Conclusion***

4. Claims 4-6 and 9-24 remain rejected under 35 U.S.C. 112, first paragraph as well as under 35 U.S.C. 102(b) and 103(a) for the reasons of record.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chana Aulakh whose telephone number is (703) 305-4482. The examiner can normally be reached on " Monday-Thursday " from 7:30 A.M. to 6:00 P.M.

If the attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. John Kight, can be reached on (703) 308-0204. The fax number for this Group is (703) 308-4556.

Application/Control Number: 09/377,866

Page 4

Art Unit: 1625

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group's receptionist whose telephone number is (703) 308-1235.

*C. S. Aulakh*

CHARANJIT S. AULAKH

PRIMARY EXAMINER